

### **REMARKS**

Entry of the present amendment and favorable reconsideration and allowance of this application are requested.

#### **1. Request for Continued Examination (RCE)**

As a procedural note, the Examiner will note that the present amendment is being filed concurrently with a formal Request for Continued Examination (RCE) under 37 CFR §1.114. Accordingly withdrawal of the "finality" of the March 11, 2009 Official Action is in order so as to allow entry and consideration of the amendments and remarks presented herewith.

#### **2. Applicants' Summary of Interview Substance**

Applicants' undersigned attorney wishes to express his appreciation for the time and courtesies of Examiners Griffin and Ramdhanie during the personal interview of July 15, 2009. It is believed that the discussions during the interview materially advanced prosecution of this application. In this regard, the substance of the discussions is adequately set forth in the Examiners' Interview Summary record of that date and thus further comment thereon appears unnecessary (although some brief mention may be made to the interview discussions below).

#### **3. Discussion of Amendments**

By way of the amendment instructions above, the prior pending claims have been revised so as to clarify the same and to emphasize certain aspects of the invention. For example, the pending independent claims 1 and 18 have been revised so as to clarify that the multiple orifice arrays are provided with each array having four orifices arranged in a square. Each orifice in the square array is thus recited as having a positioning corner which establishes a respective corner of the square.

Moreover, the independent claims have also been amended to clarify that each of the orifices includes a resilient support wall positioned at a center of the square of each four-orifice array so as to be located opposite to the positioning corner of the orifice. In such a manner therefore, the support wall urges a sample vessel inserted into the orifice outwardly from the center toward the positioning corner thereof.

Claim 17 has been canceled as redundant and the remaining dependent claims have been revised so as to be commensurate to the language of the independent claims from which they depend.

Therefore, following entry of this amendment claims 11-16 and 18-22 will remain pending herein for which favorable reconsideration and allowance are solicited.

#### **4. Response to 35 USC §103(a) Rejections**

The Examiner has persisted in his rejection of prior claims 11-17 under 35 USC §103(a) as allegedly being unpatentably "obvious" from Quackenbush (USP 3,390,783). In addition, prior claims 11-22 also attracted a rejection under 35 USC §103(a) as allegedly being unpatentably "obvious" over Lenocavallo et al. Applicants respectfully suggest however that neither Quackenbush nor Lenocavallo et al is appropriate as a reference against the claims now pending herein.

Specifically, applicants note that each of the lug elements 32 in Quackenbush is merely a downwardly bent tab portion resulting from a punch-out of material to establish the holes 28. Each of the lug elements 32 in Quackenbush therefore urge sample tubes in a common direction toward the v-shaped portion of a respective orifice 28. No disclosure or suggestion is present in Quackenbush to organize the orifices into respective arrays of four orifices forming a square such that the v-shaped portion of the orifices establishes a respective corner of the square. Consequently there clearly is not disclosure or suggestion in Quackenbush to position the lug elements 32 at the center

of such an array of orifices so that each urges a sample tube outwardly toward one of the corners of the square.

Leoncavallo et al is similarly defective. In this regard, Leoncavallo et al provides elements 34 which are designed to flex downwardly in response to insertion of a test tube inserted through an opening 32 so as to provide an axial force positively engaging the side of the test tube such that the outer surface of the test tube opposite to the elements 34 engages the inside wall of the opening 36. (See, Leoncavallo et al at column 3, lines 39-46 and Fig. 7.) As is apparent from Fig. 2, the axial force provided by the elements 34 is actually in a direction toward the center of the entire tray 20 – not toward an outside corner of a square orifice array of four orifices.

Thus, once again there is no disclosure or suggestion in the applied Leoncavallo et al reference of orifices being arranged into respective arrays of four orifices each array forming a square such that a positioning corner of the orifices establishes a respective corner of the square. Likewise therefore Leoncavallo et al does not disclose or suggestion to position the elements 34 at the center of such an array of orifices so that each urges a sample tube outwardly toward one of the corners of the square.

Therefore, all pending claims herein are patentably *unobvious* over either Quackenbush or Leoncavallo et al. Withdrawal of the rejections advanced under 35 USC §103(a) is therefore in order.

ORHA et al  
Serial No. 10/581,249  
July 20, 2009

**5. Fee Authorization**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:           /Bryan H. Davidson/            
Bryan H. Davidson  
Reg. No. 30,251

BHD:dlb  
901 North Glebe Road, 11<sup>th</sup> Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100